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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary; Departmental Appeals Board; Statement of Organization, Functions and Delegations of Authority

AGENCY: Office of the Secretary, Departmental Appeals Board, HHS.

ACTION: Notice.

SUMMARY: The Departmental Appeals Board is announcing this reorganization which allows for greater flexibility and better reflects the current work environment and priorities within the organization.

FOR FURTHER INFORMATION CONTACT: Mary Peltzer, 202-565-0169.

This notices amends Part A (Office of the Secretary), Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (HHS) at Chapter AH, Departmental Appeals Board (DAB), as last amended at 60 FR 52403-52405, dated October 6, 1995, as follows:

I. Under Section AH.10 Organization, add “DAB” as a parenthetical after the “Departmental Appeals Board.” Under Section AH.10 Organization, Paragraph A, delete “The Immediate Office of the Departmental Appeals Board,” and replace with “The Immediate office of the Chair”; delete “(3) The Director of Administration” in its entirety and renumber the remaining list. Under Section AH.10 Organization, add Paragraph F, The Operations Division and reorganize the preceding paragraphs as follows: Paragraph B, The Appellate Division.; Paragraph C, The Civil Remedies Division.; Paragraph D, The Medicare Operations Division.

II. Under Section AH.20, Functions, Paragraph A, delete “Departmental Appeals Board” and replace with “Chair” and, except for references to “Board Member,” replace references to the “Board” with “DAB.” Delete the remaining Paragraphs and replace with the following:

B. The Appellate Division provides attorney support to assist in the Board's administrative review of such cases as: (1) disallowances of federal grant funds under Titles I, IV, X, XIV, XIX and XX of the Social Security Act; (2) determinations by the Administrative Law Judges in civil remedies cases; (3) disapprovals of state plans and state plan amendments under section 1116(a) (2) of the Social Security Act; (4) disputes involving direct discretionary grants, cost allocation plans and indirect cost rates; (5) challenges to the validity of National Coverage Determinations issued by the Centers for Medicare & Medicaid Services; (6) disputes involving civil rights reviews; and (7) adverse reimbursement determinations under the reinsurance program established by the Patient Protection and Affordable Care Act. The Division is headed by a Director who is a supervisory attorney and manages the Division's resources and advises Board Members. Attorneys in the Division research legal issues, review and evaluate case files, briefs and transcripts; assist in pre-hearing proceedings; draft decisions; provide advice and assistance to Board Members on the conduct of cases and decisions; and assist at hearings.

C. The Civil Remedies Division provides attorney support to Administrative Law Judges (ALJs) to assist the ALJs in the hearing and disposition of such cases as: (1) sanctions by the Centers for Medicare & Medicaid Services and the HHS Inspector General against persons and entities associated with participation as a provider in federally funded health care programs or as an employee, contractor, or other fiscal relationship with the Department; (2) contract declinations and other adverse actions by the Indian Health Service; (3) termination of

federal funding and other sanctions by the Office for Civil Rights; (4) certain adverse actions involving the Social Security Administration; and (5) civil money penalty matters that the Food and Drug Administration's Center for Tobacco Products brings against retailers for violations of provisions of the Federal Food, Drug, and Cosmetic Act. The Division is headed by a Director who is a supervisory attorney who manages the Division's resources and assigns cases to the ALJs. Attorneys in the Division research legal issues; review and evaluate case files, briefs and transcripts; assist in pre-hearing proceedings; draft decisions; provide advice and assistance to ALJs on the conduct of cases and decisions; and assist at hearings.

D. The Medicare Operations Division provides attorney support to assist in review of ALJ decisions issued by the Office of Medicare Hearings and Appeals regarding entitlement to Medicare and individual claims for Medicare coverage and payment filed by beneficiaries or health care providers/suppliers sought under title XVIII of the Social Security Act. The Division is headed by a Director who is a supervisory attorney who assigns cases and oversees the Division's operations. Attorneys in the Division research legal issues; review and evaluate case files, briefs and transcripts; assist in pre-hearing proceedings; draft decisions; provide advice and assistance to Administrative Appeals Judges on the conduct of cases and decisions; and assist at hearings.

E. The Alternative Dispute Resolution Division provides Alternative Dispute Resolution (ADR) services in appeals filed with any of the Board's three adjudicative Divisions. The ADR Division also supports the HHS Dispute Resolution Specialist (Chair, Departmental Appeals Board) in carrying out his/her responsibilities for ADR policy and program development under the Administrative Dispute Resolution Act. The ADR Division's services and support include: mediation of program disputes filed with DAB; organizational ombuds assistance to

members of the public and parties to cases; ADR policy guidance to HHS management; regulatory negotiation for HHS program divisions; mediation and organizational intervention in EEO and workplace disputes; oversight of the Sharing Neutrals Program (a mediator exchange for local federal agencies), and training in conflict management techniques. The Division is headed by a Director who is a supervisory attorney and provides overall substantive and resource management. Professional staff consists of attorneys and dispute resolution specialists who conduct ADR interventions and training.

F. The Operations Division provides paralegal and other professional administrative staff support to each of the DAB's divisions, including administrative assistance with pre-hearing proceedings, preparing certified records for submission to Federal courts, preparing responses to Freedom of Information Act requests, and providing overall clerical support. Other primary functions include: (1) coordinating contracting and purchasing requirements of the DAB; (2) coordinating travel arrangements; (3) overseeing facilities management; and (4) overseeing office security and safety. The Division is headed by a Director who provides overall resource management.

III. Delegations of Authority. All delegations and redelegations of authority made to officials and employees of affected organizational components will continue in them or their successors pending further redelegation, provided that they are consistent with this reorganization.

Date: February 23, 2012

E.J. Holland, Jr.,
Assistant Secretary for Administration

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